

## Norm's Free End Debt Tip # 6

# Your Rights with regard to Debt Collection Practices

**The questions and answers below provide a summary of consumer rights and the remedies that you have to deal with abusive practices by debt collection agencies or attorneys.**

Questions and answers about consumer rights regarding debt collection:

### 1. Are there laws that regulate debt collectors and debt collection practices?

Yes there are. Way back in 1978 a federal law was enacted to protect consumers from abusive debt collection practices entitled the **Fair Debt Collection Practices Act** (referred to as the **FDCPA**). This law is extraordinarily protective of the consumer and provides compelling remedies to punish debt collectors that violate its provisions. However, what's sad about it is that most people who could take advantage of it don't even know it exists.

Note: Several states also have laws that protect consumers from bill collector abuse and if they are more protective they override the FDCPA.

### 2. Who does this law regulate?

"Third Party Debt Collectors" or people and businesses that collect the debts of others normally Collection Agencies or Attorneys.

Note: The law does not regulate practices of creditors collecting their own debts

### 3. Who does this law protect?

Anyone individual regarding debts incurred for personal, family or household reasons.

Note: The law does not protect you regarding collection of debts incurred for business reasons.

### 4. What does the law regulate?

Just about every step "Third Party Debt Collectors" take when they attempt to collect a debt from a consumer.

### 5. What are the major areas of protection that the law provides?

- Requires that certain **Disclosures** to be made to consumers
- Restricts **Communication** with consumers and third parties
- Prohibits the use of collection practices considered **Harassing or Abusive**
- Prohibits the use of collection practices considered to be **Unfair**
- Prohibits the use of collection practices considered to be **False or Misleading**

- Prohibits the use of abusive practices regarding the collection of **Multiple Debts**
- Prohibits the use of abusive practices regarding **Legal Actions**
- Prohibits the manufacture, distribution and use of **Deceptive Forms** to collect consumer debts

## 6. Could you tell us a little more about the disclosure requirements of third party debt collectors?

There are four primary disclosures that a third party debt collector must make to a consumer whom he contacts in an attempt to collect a debt. The first two disclosures are the “**Mini Miranda Warning**” (“*This is an attempt to collect a debt and any information obtained will be used for that purpose*”) and the “**Bill Collector Disclosure**” (*the debt collector must identify himself as a debt collector*). Both of these disclosures must be made in all communication with the consumer: written, verbal, email, etc.

The other two disclosures are (1) providing **Basic Information about the Debt** (the amount due and the identity of the creditor) and (2) the **Validation Notice** (an explanation of your rights to dispute the debt and to be advised who the original creditor was if the one listed is not). Both these disclosures must be provided to you in writing within 5 days of the first contact from the debt collector regarding that debt.

## 7. Could you tell us a little more about restrictions on third party debt collectors regarding communication?

The most important protection provided to you by the law regarding communication from debt collectors is that they can not contact you for the purpose of attempting to collect a debt:

- before 8:00AM or after 9:00PM
- at any unusual place or time or any place or time you advise them not to in writing
- at all if you are represented by an attorney
- at all if you tell them not to contact you further (see ceasing communication below)

In addition, they can not contact third parties regarding collection of the debt except those related to the debt (creditor, etc.). They can contact anyone if they are attempting to locate you but can not disclose that it’s to attempt to collect a debt.

Finally, the most compelling right that this provision gives you is the right to order a debt collector to **stop all contact** with you regarding any debt. This must be in writing and except for one more contact the debt collector must obey. This provision is referred to as **Ceasing Communication**)

## 8. What restrictions does the law place on Harassment or Abuse

The FDCPA prohibits debt collectors from:

- taking any action or making any statements (other than those permitted – see below) that may tend to intimidate you
- making idle threats (a threat of any action they are prohibited from taking, not authorized to take, or do not have the intent or the capacity to carryout)
- using profanity, talking down to you or making derogatory statements
- making repeated contacts or badgering you
- publishing or threatening to publish a debt if they are not a credit bureau
- any other conduct that can be deemed abusive or harassing

In essence, all that a debt collector is permitted to do is ask you to pay, try set up reasonable payment arrangements, attempt to resolve a dispute if one exists and make reasonable appeals. If there is actual intent on their part or on the part of the creditor they represent to report your delinquency to a credit reporting agency or proceed with legal action they may so advise you.

### **9. What restrictions does the law place on Unfair Practices**

The FDCPA sites the following tactics as being Unfair Practices and prohibits their use by debt collectors:

- causing you to incur any expense or to suffer problems in connection with their attempt to collect a debt
- attempting to collect invalid or illegal debts or to collect unauthorized charges
- causing you to incur charges or expense by deceptive means (i.e. collect calls, 900#s)
- misuse of postdated checks (intentionally depositing them prior to stated date)
- failing to maintain confidentiality
- any other tactic that can be deemed “unfair or unconscionable”

### **10. What does the law consider to be a False or a Misleading Representation?**

The FDCPA prohibits the use of the following tactics by debt collectors as being False or Misleading Representations:

- falsely representing affiliation with a government agency
- falsely representing the nature of a debt (i.e. its amount, or its legal status)
- falsely representing to be an attorney or a credit reporting agency
- falsely representing that a crime was committed by not paying a debt or that failing to respond is an admission of liability
- falsely representing any other consequence of non-payment
- falsely representing a document as being official or legal process
- falsely representing that a consumer must do anything he is not required to do
- falsely creating a sense of urgency or any other action or tactic that can be deemed “a False or a Misleading Representation

### **11. How does the law protect you when a collection agency attempts to collect more than one debt from you at the same time?**

The FDCPA protects you in this kind of situation by:

- prohibiting bill collectors from applying payments to a debt that they are aware you are disputing
- making it mandatory that they apply payments in accordance with your instructions

### **12. How does the law protect you when a legal action is filed to collect a debt?**

The FDCPA requires that law suits filed to collect open account debts (credit card, medical bills, etc.) must be filed in the legal jurisdiction (city, county, etc.) where the consumer resides.

### **13. How does the law protect you from the use of deceptive forms in debt collection?**

The FDCPA makes it a violation for any person or entity (not just third party debt collectors) to design, produce, distribute, sell or take any part in the use of Deceptive Forms for the purpose of collecting consumer debts.

**14. What remedies do you have if any of your rights under the FDCPA are violated by a collection agency or an attorney?**

The FDCPA sets penalties of up to \$1,000.00 (more if multiple violations) that debt collectors must pay to persons whose rights have been violated. In addition you can seek compensation for actual damages and, in some situations, punitive damages. The court can also award reimbursement for attorney fees and court costs. To obtain these remedies you must secure the services of an attorney and file a lawsuit against the debt collector.

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## Don't Stop Now

Don't be overwhelmed! Everything you need to put an end to your debt and to start building a sound financial future is available right here on this website.

To continue to learn from my free tips return to:

### ***Norm's Free Tips To End Debt***

Valuable free information to help you manage your debts and put your financial life on a positive track.

**To learn about additional support provided by this website to help you achieve these goals view:**

### ***Norm's Books***

**How To Settle Your Debts ~ The Credit Card Debt Rehab Workbook ~ The Credit Card Debt Rehab Letter & Forms Library**

Publications that provide all the information you will need to take control and turnaround your financial life.

### ***Norm's End Debt Program***

An opportunity to work with me directly to jump start your financial turnaround and wipe out your high interest credit card debts.

### ***Norm's Debt Enders Forum & Hot Line***

A place to get immediate help in a crisis, profit from my continuing advice, get answers to your questions and share the experiences and the success of other members.

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